



April 7, 2000

Ms. Rosalinda García
Assistant County Attorney
County of Harris
1019 congress, 15th Floor
Houston, Texas 77002-1700

OR2000-1376

Dear Ms. García:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 135781.

Harris County received a request for information relating to complaints about Harris County Library patrons accessing pornographic or sexually explicit materials on library internet terminals. You advise that you have released some of the information responsive to the request. You seek to withhold the remaining portions of the information under sections 552.107, 552.111, and 552.124 of the Government Code.

Section 552.111 of the Government Code excepts interagency and intra-agency memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the entity's policymaking process. Open Records Decision No. 615 (1993). The purpose of this section is "to protect from public disclosure advice and opinions *on policy matters* and to encourage frank and open discussion within the agency in connection with its decision-making processes." *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.) (emphasis added).

Having reviewed the information for which you claim the protection of section 552.111, we conclude that you may withhold such information under that provision. Thus, we need not address your section 552.107 claim for these materials.

Section 552.124 protects information which identifies public library system patrons unless "the library or library system determines that disclosure is reasonably necessary for the operation of the library or library system and the record is not confidential under other state or federal law." You seek to withhold, under section 552.124, the identities of library

patrons included in the information responsive to the request. Assuming that it has not been determined by the appropriate authorities that disclosure of such identifying information is reasonably necessary under the terms of the above-quoted provision, we conclude that you may withhold such information under section 552.124.¹

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances,

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

¹We note that the document for which you claimed the protection of section 552.124 ("Subject: Complaints about obscene pictures on the internet," dated January 4, 2000) does not appear to contain identifying information about library patrons. While you must withhold such patron-identifying information in this and other records responsive to the request, to the extent that the document in question does not contain such patron-identifying information, it must, since you have raised no other exceptions with regard to it, be released.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



William Walker
Assistant Attorney General
Open Records Division

WMW/ljp

Ref: ID# 135781

Encl. Submitted documents

cc: Mr. Chris Hanson
KPRC-TV
P.O. Box 2222
Houston, Texas 77074
(w/o enclosures)